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11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 **LARRY DEAN PADILLA,**

15 Plaintiff,

16 v.

17 **M. S. EVANS,**

18 Defendants.

CASE NO. C 06-1725 MJJ

**DECLARATION OF T. VARIZ  
IN SUPPORT OF  
DEFENDANT'S OPPOSITION  
TO PLAINTIFF'S MOTION  
TO COMPEL DISCOVERY**

19  
20 I T. Variz, declare:

21 1. I am an employee of the California Department of Corrections and Rehabilitation  
22 (CDCR), working as one of the two Appeals Coordinators at Salinas Valley State Prison (SVSP)  
23 in Soledad, California. I have worked within the CDCR for over 17 years as a correctional  
24 officer, and as a Correctional Counselor for the past 12 years, and have worked at SVSP as the  
25 Appeals Coordinator for 3 years. I am familiar with the institutional policies and practices at  
26 SVSP especially with respect to the institution's procedures for processing inmate appeals. I am  
27 competent to testify to the matters set forth in this Declaration, and if called upon to do so, would  
28 so testify. I submit this declaration in support of Defendant's Motion in Opposition to Plaintiff's

1 Motion to Compel.

2 2. In preparing this declaration, I have reviewed the following requests from Plaintiff's  
3 requests for production of documents:

4 REQUEST FOR PRODUCTION NO. 1:

5 Plaintiff seeks from the defendant(s), all administrative complaint(s) (i.e. CDC-602's), filed  
6 by other prisoners at Salinas Valley State Prison with respect to lockdowns starting upon my  
7 arrival on March 23, 2004 to the present date 2007.

8 REQUEST FOR PRODUCTION NO. 2:

9 Plaintiff seeks from the defendant(s) all "CDC-602's" that were "Screened Out" that  
10 pertained to lockdowns on this yard "A" Salinas Valley State Prison [sic] by the Inmate Appeals  
11 Coordinator.

12 3. Defendant cannot produce documents in response to these requests for the following  
13 reasons:

14 a. First, these requests as worded are overly broad and unduly burdensome. SVSP  
15 currently houses 4,769 inmates, many of whom submit from 5 to 130 inmate appeals a year.  
16 Furthermore, the SVSP appeals office processes over 160 inmate appeals in a given day. All  
17 inmate appeals for each inmate are retained in an appeals file ("A"-file) which is retained for  
18 three years at the Appeals Office and for two years in archives. These appeals are kept in paper  
19 format only and are not searchable through an electronic database, other than the Inmate Appeals  
20 Automated Tracking System which only contains a general description of the appeal submitted  
21 and its disposition. Accordingly, in order to respond to Plaintiff's request, SVSP appeals staff  
22 would have to spend countless hours sifting through numerous inmate's A-Files in search of any  
23 grievance which challenges a particular facility being placed on a modified program or  
24 "lockdown." Requiring such a result would exhaust a great amount of CDCR resources.

25 b. Secondly, Plaintiff's request is poorly worded. Under SVSP policy there are a  
26 variety of ways in which a facility can be placed on a modified program, some of which do not  
27 require the cell confinement of prisoners. Without being more specific, it is difficult to  
28 understand exactly what types of documents Plaintiff is looking for in his requests for inmate

1 appeals grieving "lockdowns."

2 c. Lastly, both of Plaintiff's requests seek documents which are personal in nature  
3 and restricted from public view. Inmate appeals are not disclosed to other inmates or the general  
4 public because they often grieve personal issues which if disclosed could potentially cause  
5 embarrassment for the inmate(s) or named in the appeal, and would violate these individual  
6 inmate's right to privacy. In addition, inmate appeals frequently raise allegations of misconduct  
7 against individual staff members, and if these allegations become public knowledge within the  
8 prison they may not only harm the reputation of the individual staff member, but could also  
9 threaten the safety of this staff member as they would likely become targets for assault.

10 4. Furthermore, with respect to Plaintiff's Request for Production No. 2, Defendant  
11 cannot provide Plaintiff with the documents he seeks because they are not in the possession of  
12 the Inmate Appeals Office. Due to the high volume of appeals received by the Inmate Appeals  
13 Office, inmate appeals which have been "screened out" due one of the reasons listed in the  
14 California Code of Regulations, title 15, § 3084.3(c), are not kept by the Appeals Office but  
15 rather returned to the inmate along with a form notifying the inmate of the reasons why his  
16 appeal was screened out. The only record that is maintained of a screen out appeal is that the  
17 appeal is recorded in the Inmate Appeals Automated Tracking System along with a description as  
18 to the reasons why the appeal was screened out.

19 5. Because Plaintiff's request is labor intensive, difficult to ascertain, and seeks  
20 information which if disclosed would violate the privacy rights of individuals named in the  
21 appeal and potentially threaten the safety of staff members mentioned in the appeal, such  
22 materials must not be produced to Plaintiff. Furthermore, because appeals which have been  
23 "screened out" are not regularly kept by the Inmate Appeals Office, the materials requested in

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1 Plaintiff's Request for Production No. 2 cannot be produced.


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3 I declare under penalty of perjury that the foregoing is true and correct. Executed at

4 Soledad, California, on July 6, 2007.

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T. Variz  
Appeals Coordinator,  
Salinas Valley State Prison

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Decl. T. Variz Supp. Def.'s Mot. Opp'n Pl.'s Mot. Compel

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